

SENATE BILL 688

Unofficial Copy  
P4

2004 Regular Session  
(4lr2420)

**ENROLLED BILL**  
-- Budget and Taxation/Appropriations --

Introduced by **Senator Hogan**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Employees - Unused Annual Leave - Special Pay Plan**

3 FOR the purpose of establishing a Special Pay Plan for the purpose of allowing  
4 certain State employees to contribute to a certain plan with tax-qualified status  
5 under the Internal Revenue Code; requiring ~~the Comptroller, in consultation~~  
6 ~~with the Secretary of Budget and Management, to administer the Special Pay~~  
7 ~~Plan, Management or the Secretary's designee to adopt certain regulations, and~~  
8 ~~regulations; requiring authorizing the Secretary or the Secretary's designee to~~  
9 adopt, implement, and maintain the Special Pay Plan qualified under the  
10 Internal Revenue Code; requiring the ~~Comptroller~~ Secretary or the Secretary's  
11 designee to hire certain entities; providing for the vesting of a participating  
12 employee in the Special Pay Plan; providing for the distribution of a  
13 participating employee's interest in the Special Pay Plan; providing for the  
14 duties of certain entities hired by the ~~Comptroller~~ Secretary or the Secretary's  
15 designee; providing for the indemnification of certain entities; requiring the  
16 ~~Secretary of Budget and Management~~ Secretary or the Secretary's designee to adopt  
17 regulations to establish certain eligibility criteria for participants in the Special

1 Pay Plan; requiring that participation in the Special Pay Plan is mandatory;  
 2 requiring the ~~Comptroller~~ Secretary or the Secretary's designee to make certain  
 3 contributions to the Special Pay Plan on behalf of certain employees; requiring  
 4 the ~~Comptroller and Secretary of Budget and Management~~ or the Secretary's  
 5 designee to adopt regulations regarding the certain contributions to the Special  
 6 Pay Plan; defining certain terms; *providing for the delayed effective date of this*  
 7 *Act*; and generally relating to establishing a Special Pay Plan for State  
 8 employees.

9 BY adding to  
 10 Article - State Personnel and Pensions  
 11 Section 33-101 through 33-302, inclusive, to be under the new title "Title 33.  
 12 Special Pay Plan"  
 13 Annotated Code of Maryland  
 14 (1997 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - State Personnel and Pensions**

18 TITLE 33. SPECIAL PAY PLAN.

19 SUBTITLE 1. DEFINITIONS.

20 33-101.

21 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 (B) "DESIGNATED COMPANY" MEANS A COMPANY THAT ~~ON OR AFTER JULY 1,~~  
 23 ~~2004, WAS~~ IS DESIGNATED BY THE ~~COMPTROLLER SECRETARY OR THE SECRETARY'S~~  
 24 DESIGNEE TO OFFER A SPECIAL PAY PLAN APPROVED BY THE INTERNAL REVENUE  
 25 SERVICE.

26 (C) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO  
 27 PARTICIPATE IN THE SPECIAL PAY PLAN.

28 (D) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO  
 29 PARTICIPATES IN THE SPECIAL PAY PLAN.

30 (E) "SECRETARY" MEANS THE SECRETARY OF BUDGET AND MANAGEMENT.

31 (F) "SPECIAL PAY PLAN" MEANS A QUALIFIED TRUST ESTABLISHED UNDER §  
 32 401(A) OF THE INTERNAL REVENUE CODE.

33 33-102.

34 (A) THE SPECIAL PAY PLAN IS IN ADDITION TO ANY OTHER RETIREMENT,  
 35 PENSION, OR BENEFIT SYSTEM ESTABLISHED BY THE STATE.

1 (B) ~~A DEFERRAL OF COMPENSATION ANY CONTRIBUTION~~ UNDER THE  
2 SPECIAL PAY PLAN DOES NOT REDUCE THE AMOUNT OF ANY RETIREMENT, PENSION,  
3 OR OTHER BENEFIT PROVIDED BY STATE LAW.

4 SUBTITLE 2. SPECIAL PAY PLAN.

5 33-201.

6 THERE IS A SPECIAL PAY PLAN FOR ELIGIBLE EMPLOYEES AS ALLOWED BY §  
7 401(A) OF THE INTERNAL REVENUE CODE.

8 33-202.

9 ~~THE COMPTROLLER, IN CONSULTATION WITH THE SECRETARY, SHALL~~  
10 ~~ADMINISTER THE SPECIAL PAY PLAN.~~

11 ~~33-203.~~

12 ~~(A) THE COMPTROLLER SHALL ADOPT, IMPLEMENT, AND MAINTAIN THE~~  
13 ~~SPECIAL PAY PLAN.~~

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE  
15 SECRETARY SHALL OR THE SECRETARY'S DESIGNEE MAY ADOPT, IMPLEMENT, AND  
16 MAINTAIN THE SPECIAL PAY PLAN.

17 (B) THE SECRETARY MAY DELEGATE ANY OR ALL OF THE SECRETARY'S  
18 DUTIES UNDER THIS TITLE TO ANY OTHER AGENCY OR UNIT OF STATE  
19 GOVERNMENT.

20 ~~(B)~~ (C) (1) IN ACCORDANCE WITH DIVISION II OF THE STATE FINANCE  
21 AND PROCUREMENT ARTICLE, THE ~~COMPTROLLER~~ SECRETARY OR THE SECRETARY'S  
22 DESIGNEE SHALL SELECT A DESIGNATED COMPANY OFFERING A SPECIAL PAY PLAN  
23 APPROVED BY THE INTERNAL REVENUE SERVICE.

24 (2) ~~THE COMPTROLLER~~ SECRETARY OR THE SECRETARY'S DESIGNEE  
25 SHALL APPROVE THE FORM AND CONTENTS OF THE CONTRACT OFFERED TO A  
26 DESIGNATED COMPANY.

27 (3) ~~THE COMPTROLLER~~ SECRETARY OR THE SECRETARY'S DESIGNEE  
28 SHALL PERIODICALLY REVIEW THE INVESTMENT OPTIONS OFFERED BY THE  
29 DESIGNATED COMPANY THROUGH THE SPECIAL PAY PLAN.

30 ~~(C)~~ (D) ~~THE COMPTROLLER~~ SECRETARY OR THE SECRETARY'S DESIGNEE  
31 ~~AND THE SECRETARY~~ SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

32 ~~(D)~~ (E) A PARTICIPATING EMPLOYEE'S INTEREST IN THE SPECIAL PAY PLAN:

33 (1) SHALL IMMEDIATELY BE 100% VESTED AND BE MADE AVAILABLE TO  
34 THE EMPLOYEE IN A MANNER CONSISTENT WITH THE INTERNAL REVENUE CODE;  
35 AND

1 (2) SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF THE  
2 PARTICIPATING EMPLOYEE.

3 ~~33-204-33-203.~~

4 THE ~~COMPTROLLER~~ SECRETARY OR THE SECRETARY'S DESIGNEE IS NOT  
5 RESPONSIBLE FOR:

6 (1) RETIREMENT COUNSELING WITH RESPECT TO THE SPECIAL PAY  
7 PLAN;

8 (2) PREPARING OR DISSEMINATING INFORMATION WITH RESPECT TO  
9 THE PROVISIONS OF THE SPECIAL PAY PLAN OFFERED BY A DESIGNATED COMPANY;  
10 OR

11 (3) ENROLLING, TERMINATING, OR RETIRING A PARTICIPATING  
12 EMPLOYEE.

13 ~~33-205-33-204.~~

14 (A) BEFORE ENROLLING A PARTICIPATING EMPLOYEE, THE DESIGNATED  
15 COMPANY SHALL PROVIDE TO ELIGIBLE EMPLOYEES, ~~THE COMPTROLLER~~, AND THE  
16 SECRETARY OR THE SECRETARY'S DESIGNEE ANY INFORMATION REQUESTED  
17 REGARDING THE DESIGNATED COMPANY, THE SPECIAL PAY PLAN, OR THE  
18 INVESTMENT OPTIONS OFFERED BY THE DESIGNATED COMPANY.

19 (B) THE DESIGNATED COMPANY SHALL PROVIDE AND PAY FOR ALL  
20 ADMINISTRATIVE, INFORMATIONAL, AND COUNSELING SERVICES WITH RESPECT TO  
21 THE SPECIAL PAY PLAN OFFERED BY THE DESIGNATED COMPANY.

22 (C) THE DESIGNATED COMPANY SHALL COOPERATE WITH ~~THE~~  
23 ~~COMPTROLLER AND~~ THE SECRETARY OR THE SECRETARY'S DESIGNEE IN  
24 CONNECTION WITH ANY CONCERNS THAT RELATE TO ENROLLMENT, TERMINATION,  
25 OR RETIREMENT OF A PARTICIPATING EMPLOYEE.

26 (D) THE DESIGNATED COMPANY SHALL DISCLOSE TO THE ~~COMPTROLLER~~  
27 SECRETARY OR THE SECRETARY'S DESIGNEE ALL FEES, COMMISSIONS, OR OTHER  
28 CHARGES THE DESIGNATED COMPANY IMPOSES OR COLLECTS WITH RESPECT TO  
29 THE SPECIAL PAY PLAN.

30 ~~33-206-33-205.~~

31 A DESIGNATED COMPANY SHALL HOLD HARMLESS AND INDEMNIFY THE STATE,  
32 ~~THE COMPTROLLER~~, THE SECRETARY, AND THE OFFICERS, AGENTS, AND EMPLOYEES  
33 OF THE STATE, FROM ANY CLAIMS OR DEMANDS ARISING FROM ANY ACT OR  
34 OMISSION ON THE PART OF THE DESIGNATED COMPANY OR ITS OFFICERS, AGENTS,  
35 OR EMPLOYEES, INCLUDING ANY CLAIM OR DEMAND FOR PAYMENT OF BENEFITS OR  
36 DAMAGES ARISING FROM THE FORMATION, EXECUTION, PERFORMANCE, OR  
37 TERMINATION OF A SPECIAL PAY PLAN.

## SUBTITLE 3. PARTICIPATION.

2 33-301.

3 (A) ~~THE SECRETARY OR THE SECRETARY'S DESIGNEE~~ SHALL ADOPT  
4 REGULATIONS THAT ESTABLISH THE NECESSARY CRITERIA THAT AN INDIVIDUAL  
5 WHO IS A STATE EMPLOYEE SHALL MEET TO BE CONSIDERED AN ELIGIBLE  
6 EMPLOYEE, INCLUDING AGE AND THE MINIMUM AMOUNT OF CONTRIBUTIONS  
7 REQUIRED BY WITH RESPECT TO THE PARTICIPATING EMPLOYEE.

8 (B) PARTICIPATION IN THE SPECIAL PAY PLAN IS MANDATORY FOR ANY  
9 ELIGIBLE EMPLOYEE.

10 33-302.

11 (A) ~~PARTICIPATING EMPLOYEE CONTRIBUTIONS MADE~~ CONTRIBUTIONS TO  
12 THE SPECIAL PAY PLAN SHALL BE MADE BY THE ~~COMPTROLLER~~ SECRETARY OR THE  
13 SECRETARY'S DESIGNEE AT NO LATER THAN THE TIME THE PARTICIPATING  
14 EMPLOYEE TERMINATES STATE EMPLOYMENT.

15 (B) CONTRIBUTIONS MADE BY THE ~~COMPTROLLER~~ SECRETARY OR THE  
16 SECRETARY'S DESIGNEE ON BEHALF OF THE PARTICIPATING EMPLOYEE UNDER  
17 SUBSECTION (A) OF THIS SECTION INCLUDE:

18 (1) COMPENSATION FOR THE PARTICIPATING EMPLOYEE'S UNUSED  
19 ANNUAL LEAVE UNDER § 9-305 OF THIS ARTICLE; AND

20 (2) ANY OTHER COMPENSATION APPROVED BY THE SECRETARY OR THE  
21 SECRETARY'S DESIGNEE.

22 (C) ~~THE COMPTROLLER AND THE~~ SECRETARY OR THE SECRETARY'S  
23 DESIGNEE SHALL ADOPT REGULATIONS THAT ARE NECESSARY TO CARRY OUT THIS  
24 SECTION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That, if the Secretary  
26 delegates the Secretary's duties under this Act to any other agency or unit of State  
27 government, the Secretary shall notify the Senate Budget and Taxation Committee  
28 and the House Appropriations Committee in writing within 30 calendar days.

29 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take  
30 effect ~~June 1, 2004~~ July 1, 2005.

